

UNIT 72 COLLECTING CONTRACTOR DEBTS

(Formerly Unit 68)

UNIT CERTIFICATION

Statement of Completion

_____ has satisfactorily completed on-the-job training in the duty or duties of this Unit under the conditions described below and in accordance with the overall standard(s) for this Unit.

Duty	Determine and recover debts from contractors.
Conditions	Given the terms of a contract and set of circumstances that may require a collection of debt from the contractor.
Overall Standard(s)	Recover money due the Government with minimum delay using available contractual and legal means. Avoid actual monetary loss to Government.

Evaluator

Name

Title

Date

UNIT 72 COLLECTING CONTRACTOR DEBTS

DOCUMENTATION OF OJT ASSIGNMENT(S)
Description of Assignment:
Evaluation:
Completion Date:

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Policies

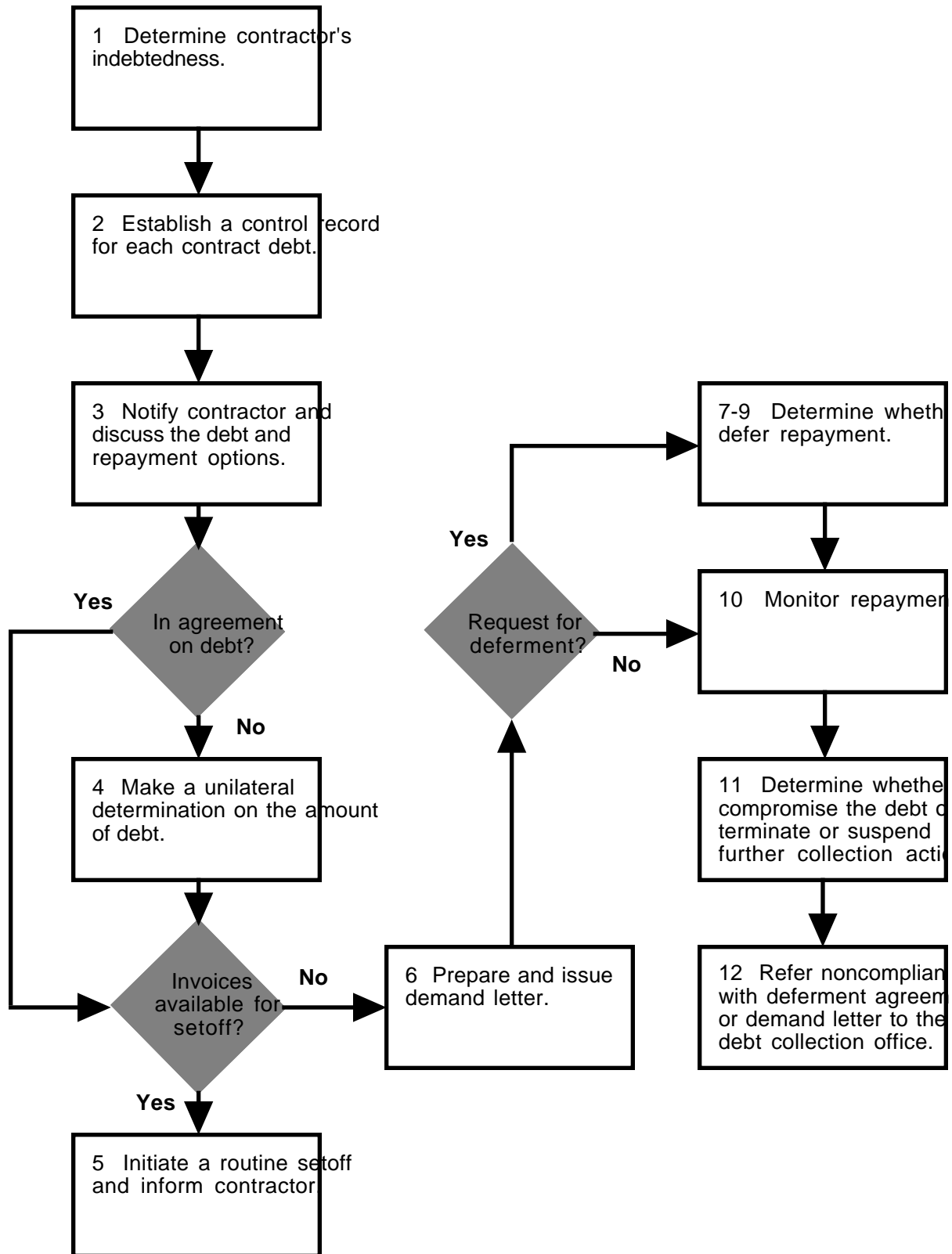
<i>FAR</i>	<i>Agency Suppl.</i>	<i>Subject</i>
32.6		Contract debts.
52.232-17		Interest.

Other KSA's

1. Business Finance, Organization & Management, Commercial Law, and Quantitative Analysis.
2. Knowledge of typical reasons for contractor indebtedness.
3. Knowledge of options or methods of collection and potential impact on contractor.
4. Skill at calculating contractor debts, including interest.

Other Policies and References (Annotate As Necessary):

COLLECTING CONTRACTOR DEBTS



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Related Standards

<p>1. Determine contractor's indebtedness.</p> <p>Typical reasons for indebtedness:</p> <ul style="list-style-type: none"> • Damages or excess costs related to defaults in performance (per Unit 76). • Breach of contract obligations concerning progress payments, advance payments, or Government furnished property or material (per Units 69 and 62). • Government expense of correcting defects (per Unit 61). • Overpayments related to errors in quantities, billings or quality deficiencies (per Units 61 and 65). • Retroactive price reductions resulting from contract terms for price redetermination or for determination of prices under incentive type contracts. • Overpayments disclosed by quarterly statements required under price redetermination or incentive contracts. • Delinquency in contractor payments due under agreements or arrangements for deferral or postponement. • Notification by another Government agency (if for tax debts, IRS furnishes instructions on debt collection). 	<p>1. Ascertain the correct amount of debt. Fairly consider both the Government's claim and any contract claims by the contractor against the Government.</p>
<p>2. Establish a control record for each contract debt.</p>	<p>2. Include:</p> <ul style="list-style-type: none"> • Name and address of the contractor. • The contract number, if any. • A description of the debt. • Amount of debt and the appropriation to be credited. • Date the debt was determined. • Dates of demand for payment. • Amounts and dates of collection. • Date of any appeal filed or action brought in the Court of Claims under the Disputes clause. • Status of collections (e.g., actions reported to the disbursing officer, funds requested to be withheld by the disbursing officer or other offices; deferment or installment payment arrangements and requests reviewed; supplemental information requested to support deferment requests; and actions transferred to the contract financing office).

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Related Standards

<p>3. Notify contractor, negotiate the amount of debt, and discuss repayment options.</p> <ul style="list-style-type: none"> • Schedule, develop strategy, and conduct negotiations (per Units 44 and 45). • Obtain the contractor's signature on an interim memorandum evidencing a negotiated price agreement involving refund. • Prepare a supplement agreement (per Unit 75) which: <ul style="list-style-type: none"> - Establishes the amount of debt. - Establishes the method of payment and payment terms (cash payment, setoff, or deferment). 	<p>3. Provide the contractor with an opportunity to discuss validity, amount, and repayment of debt. At the contractor's request, recognize tax credits under section 1481 of the Internal Revenue Code in meeting the debt.</p> <p>If payment is to be deferred, the contract modification incorporates a deferment agreement per step 7.</p>
<p>4. Make a unilateral determination on the amount of debt under FAR 52.223-1, Disputes.¹</p>	<p>4. Make a unilateral determination if the contractor is delinquent in:</p> <ul style="list-style-type: none"> • Furnishing pertinent information. • Negotiating expeditiously. • Entering into an agreement on a fair and reasonable price revision. • Signing the interim memorandum. • Executing the supplemental agreement. <p>The unilateral determination of amount should be:</p> <ul style="list-style-type: none"> • Proper based on the merits of the case. • Not in excess of the amount that would have been considered acceptable in a negotiated agreement. • Consistent with the contract's terms.

¹FAC 84-51.

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5. Initiate a routine setoff and provide the contractor with an explanation (per Unit 65).	5. Set off if contractor invoices are on hand for payment
<p>6. Prepare and issue demand letter.</p> <p>Include:</p> <ul style="list-style-type: none"> • Description of debt. • Amount of debt. • Notification that any amounts not paid within 30 days from the date of the demand will bear interest from the date of the demand (or any earlier date specified in the contract) at a rate established by the Secretary of the Treasury. • Notification that the contractor may submit a proposal for deferment of collection if immediate payment is not practicable or if the amount is disputed. • Identification of responsible official designated for determining the amount of the debt and for its collection. • Deadline and other instructions on submitting payment. • Describe future efforts to collect debt (e.g., withholding and offset on future invoices). • Appeal rights. 	<p>6. Issue a letter of demand when set offs are not possible. Issue the letter as soon as the responsible official has computed the amount of refund due. The letter should be complete and factually accurate. Do not issue a demand letter prior to the decision in step 4.²</p> <p>In case of a debt arising from a price reduction for defective pricing, interest runs from the date of overpayment by the Government until repayment by the contractor at an "underpayment" rate established by the Secretary of the Treasury.³</p>
<p>7. Obtain the contractor's written request for deferment of payment.</p> <ul style="list-style-type: none"> • If contractor has appealed the debt under Disputes Act, request for deferment may be limited to an explanation of contractor's financial condition. • If no appeal under the Disputes Act, advise the contractor to submit the following: <ul style="list-style-type: none"> - Financial condition. - Contract backlog. - Project cash receipts and requirements. - Feasibility of immediate payment. - Probable effect on operations of immediate payment in full. • If information is not adequate, request contractor to furnish the needed information 	7. Refer the deferment request to the responsible official (FAR 32.601)

²FAC 84-51.

³FAC 90-3.

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<p>8. Prepare recommendation on deferment:</p> <ul style="list-style-type: none"> • Determine impact on contractor of requiring immediate payment. • Determine impact on contract performance. • Determine impact of reprocurring if contract performance would be jeopardized, in terms of cost and leadtimes. 	<p>8. Grant deferments only:</p> <ul style="list-style-type: none"> • To small businesses and financially weak firms (based on a balance of the need for Government security against loss and undue hardship on the contractor), or • For amounts in dispute. <p>Weigh the benefit of demanding immediate repayment against impact on contract performance and cost. The decision is to be made by the responsible official.</p>
<p>9. Prepare the deferment agreement.</p> <ul style="list-style-type: none"> • Description of the debt. • Date of first demand for payment. • Notice of an interest charge. • Identification of the office to which debt payments are to be sent. • Requirement for the contractor to submit financial information requested by the Government and for reasonable access to the contractor's and property by Government representatives. • Provision for the Government to terminate the deferment agreement and accelerate the maturity of the debt if the contractor defaults or if bankruptcy or insolvency proceedings are instituted by or against the contractor. • Any necessary protective requirements (e.g., collateral, subordinations or standbys of indebtedness, special bank accounts, etc.). • When a contractor appeal of the debt determination is pending, a requirement that the contractor diligently prosecute the appeal and pay the debt in full when the appeal is decided or the parties reach agreement. • When the contractor is not planning to appeal the debt or file an action under the Disputes clause, schedule or payment plan, including <ul style="list-style-type: none"> - Permission for the Gov't to periodically review the contractor's financial condition and require prepayment if it improves. - Requirements for stated or measurable prepayments upon occurrence of specific events or contingencies that improve the contractor's ability to pay. • If desired by the contractor, provision for the right to make prepayments without prejudice, for refund of overpayments, and for the crediting of interest. 	<p>9. Deferment agreement should conform to FAR 32.613.</p>

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10. Monitor contractor compliance with the agreement for repaying the debt or demand letter; identify and notify the contractor of any interest owed the Government.	10. Determine interest as provided in FAR 32.614.
11. Determine whether to compromise the debt or terminate or suspend further collection action.	11. Compromise the debt when the amount is under \$100,000, ⁴ excluding interest, and further collection is not practicable or would cost more than the amount of recovery.
12. Refer noncompliance with deferment agreements or demand letter to the debt collection office.	

⁴Per FAC 90-5.